

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
v.	)	Cr. No. 19-10198-DPW
	)	
	)	
SEBASTIAN BATISTA	)	

**MOTION TO DISMISS (SPEEDY TRIAL ACT)**

Now comes the defendant in the above-named case and respectfully moves this Honorable Court to dismiss the above-numbered indictment on the ground that his trial will occur after his speedy trial clock has run. It is the defendant's position, as articulated in his opposition to the government's last motion for an order of excludable delay (adopted by reference herein), that once this Court decided the defendant's motion to suppress on July 9, 2020, the speedy trial began running again. Given the government's position that it would not assent to a conditional plea (without explanation), it is the defendant's view that the speedy trial clock expired because of the government, and that dismissal with prejudice is the appropriate remedy. This court may elect to dismiss the charges either with or without prejudice, after considering, among others, each of the following factors: the seriousness of the offense; the facts and circumstances of the case which led to the dismissal; and the impact of a reprosecution on the administration of the Speedy Trial Act and on the administration of justice. *United States v. Franklin*, 630 F.3d 53,57 (1st Cir. 2011). The court may consider any other factors that are rationally related to the statutory objective of balancing public and private interests. *Id.* at 58.

Respectfully submitted,  
By his attorney,

/s/ Robert Sheketoff  
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**CERTIFICATE OF SERVICE**

I hereby certify that I am counsel for the defendant and have caused a copy of this pleading to be served electronically through the ECF system to all parties herein this 3rd day of November, 2020.

/s/ Robert Sheketoff  
Robert Sheketoff